

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Najdek, et al.

Serial No.: 10/618,803

Group Art Unit: 1616

Filed: July 14, 2003

Examiner: Fisher, Abigail

For: DUAL-PHASE COSMETIC COMPOSITION

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121)**

Commissioner For Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The Notice of Non-Compliant Amendment of July 8, 2009, advised the Applicants that the Amendment filed on October 25, 2007, is considered non-compliant, since the listing of claims failed to include the text of withdrawn claims 23 and 24.

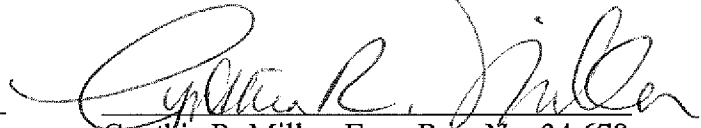
As it was not clear to the undersigned why the request has been made after such an extensive period of time, during which time numerous office actions have been issued and corresponding responses have been filed, the application has been on Appeal (and claims 23 and 24 were not appealed), prosecution on the application has been reopened, and the most recent response filed by the Applicants does not amend any of the claims, the undersigned telephoned Dr. Richter, the Primary Examiner, and left two voicemails on August 3 and 5, 2009. Examiner Fisher telephoned the undersigned on August 5, 2009, and advised the undersigned that it was necessary that the Applicants submit a complete listing of the claims; however, she did not offer a clear rationale as to the reason for the requirement.

Nevertheless, in response to the Notice, the Applicants provide herein a complete listing of the claims in the attached Appendix, including the text and the corresponding

status of each of the claims, with the exception of cancelled claim 6 for which no text should be required. Claim 6 had been cancelled as redundant over claim 1.

Respectfully submitted,

Date: August 5, 2009

A handwritten signature in cursive script, appearing to read "Cynthia R. Miller", written over a horizontal line.

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